THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO. 21021 of 1996

DATE: 24-01-2007

Between :

Lashkar Mallaiah,
Sadasivapet, Medak District and another.
... Petitioners

And

Secretary,
Government of Andrha Pradesh,
Revenue Department, Secretariat,
Hyderabad and 2 others.

... Respondents

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ORDER:

The first petitioner herein, who claims to be landless poor, was assigned Ac.2.00 of land situated in Sy.No.476 of Peddapur village, Sadasivpet Mandal by the Tahasildar, Sangareddy. Accordingly, a patta was granted to the first petitioner on 22-09-1967. Similarly, the second petitioner was granted a patta to an extent of Ac.1.20 guntas situated in Sy.No.476 of Peddapur village and they were also granted pattedar pass books. The petitioners have made the respective lands fit for cultivation and planted Neelgiri trees.

While so, the third respondent-Mandal Revenue Officer, Sadasivpet Mandal issued a memo dated 02-06-1995 directing the petitioners not to enter into the land situated in Sy.No.476 alleging that the petitioners had encroached into an extent of Ac.0.33 guntas of land and that the same is proposed to be acquired by the Government. Aggrieved by the same, the present writ petition is filed.

In the counter affidavit filed on behalf of the respondents, it is alleged that the land in Sy.No.476 which was illegally occupied by the first petitioner was got surveyed by the Tahasildar, Sangareddy, during which it was found that he had planted about 400 eucalyptus tress to establish his possession. Similarly, it is further alleged that the second petitioner had occupied Ac.0.13 guntas of land in Sy.No.290 PP of

Peddapur village. According to the respondents both the petitioners 1 and 2 are having their own patta lands and therefore, the encroached lands cannot be assigned in their favour, hence, the impugned memo was rightly issued calling upon the petitioners not to enter into the land in question.

I have heard the learned counsel for the petitioners and the learned Government Pleader appearing for the respondents.

Though there is a dispute as to the extent and identity of the lands already assigned to the petitioners, it is not in dispute that the petitioners have been in occupation of the Ac.0.33 guntas of land situated in Sy.No.476. However, whereas the petitioners claimed that the said land is part of the land assigned to them, the same has been denied by the respondents.

Be that as it may, since there is no dispute about the possession of the petitioners, as per the settled principles of law the petitioners cannot be dispossessed without following due process of law. Since, the impugned memo was issued without giving any opportunity to the petitioners to explain the allegation that they have illegally encroached upon the land in question, as rightly contended by the learned counsel for the petitioners, the impugned notice is liable to be set aside on that ground alone.

Accordingly, the impugned memo is set aside and the writ petition is disposed of granting liberty to the petitioners to submit their objections, if any, within a period of six weeks from the date of receipt of a copy of this order. Thereafter, it is open to the respondents to pass appropriate orders in accordance with law after considering the objections raised by the petitioners. It

is made clear that in case, the land in question is found to be part of the land assigned to the petitioners, even if it is required for any public purpose, the respondents shall take appropriate steps following the dicta laid down by the Larger Bench of this court in ***LAO-cum-RDO, Chevella Division, Domalaguda, Hyderabad v. M.Pandu***[1]***.*** No costs.

G. ROHINI, J.

Dt. 24-01-2007
KLP

[1] 2004(2) ALD 451